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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,853	12/22/2000	Adrian M. Kristiansen	P 269867 NOR-13169BA	8553
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STEUBING MCGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720				
EXAMINER SIDDIQI, MOHAMMAD A				
ART UNIT 2154				
PAPER NUMBER				

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/741,853

Applicant(s)

KRISTIANSEN ET AL.

Examiner

Mohammad A. Siddiqi

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-39 are presented for examination.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/18/2006 has been entered.

### ***Claim Rejections - 35 USC § 101***

3. Claims 1, 11, and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result. The packet and byte counters are numbers manipulating various numbers. These statistical values do not manipulate

any hardware or tangible entity. Therefore, these statistical values are non statutory entities as detailed in MPEP 2106.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 8, 19, and 30 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Written description required for limitation "value comprises a negative value".

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 8, 19, and 30 recites the limitation "the value" in the first line of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-9, 11-20, 22-31, and 33-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Notes et al. (5,231,593) (hereinafter Notes).

10. As per claim 1, Notes discloses a method for monitoring a network comprising:

receiving at least one data packet (col 5, lines 40-42);

reading an entry of a memory device (reads the buffer, col 5, lines 39-40), the entry of the memory device containing both a first statistical value and a second statistical value (col 5, lines), wherein the entry is a single memory location of the memory device (shared memory, col 5, lines 48-60), wherein the first statistical value includes a packet count, and wherein the second statistical value includes a byte count (col 5, lines 48-60);

determining a third statistical value based on at least one of a content of the at least one data packet (col 5, lines 48-60), the first statistical value, and the second statistical value (col 5, lines 48-60 ) wherein the third statistical value includes a new value of the packet count and a new value of the byte count (updated counters, col 5, lines 48-60); and

storing the entire set of bits of the determined third statistical value into the entry of the memory device (updated counters are stored in shared memory, col 5, lines 48-60); and

wherein said reading, determining and storing are performed without interruption (updated counters are stored in shared memory with out interruption, col 5, lines 38-60).

11. As per claim 2, Notes discloses at least one data packet contains a set of data bits, wherein the first statistical value includes a count of the

received at least one data packet, and wherein the second statistical value includes a count of a subset of data bits of the received at least one data packet (byte and packet counters, col 5, lines 48-60).

12. As per claim 3, Notes discloses storing the determined third statistical value in the entry of the memory device overwrites one of the first statistical value and the second statistical value (updated counters are stored in shared memory, col 5, lines 48-60).

13. As per claim 4, Notes discloses the at least one data packet comprises at least one of SONET, ATM, Ethernet, 14DLC, PPP, IP, TCP, and UDP data packet (col 6, lines 1-16)

14. As per claim 5, Notes discloses the third, statistical value comprises updates to at least one of the first statistical value and the second statistical value (updated counters are stored in shared memory, col 5, lines 48-60)

15. As per claim 6, Notes discloses the third statistical value updates at least one of the first statistical value and the second statistical value by at least one of incrementing and decrementing the first statistical value and the

second statistical value, respectively, by a value (updated counters are stored in shared memory, col 5, lines 48-60).

16. As per claim 7, Notes discloses *the third* statistical value updates at least one of the first statistical value and the second statistical value by adding a value to the first statistical value and the second statistical value, respectively (col 5, lines 48-60)

17. As per claim 8, Notes discloses the value comprises a negative value (614, fig 6, set error indicator).

18. As per claim 9, Notes discloses the entry of the memory device is associated with the received data packet (elements of fig 5)

19. As per claim 11, Notes discloses the third statistical value updates at least one of the first statistical value and the second statistical value by correcting an error (614, fig 6, set error indicator) in the at *least* one of the *first* statistical value and the second statistical value (col 5, lines 48-60).

20. As per claims 12 and 23, claims are rejected for the same reasons as claim 1, above.



21. As per claims 13 and 24, claims are rejected for the same reasons as claim 2, above.

22. As per claims 14 and 25, claims are rejected for the same reasons as claim 3, above.

23. As per claims 15 and 26, claims are rejected for the same reasons as claim 4, above.

24. As per claims 16 and 27, claims are rejected for the same reasons as claim 5, above.

25. As per claims 17 and 28, claims are rejected for the same reasons as claim 6, above.

26. As per claims 18 and 29, claims are rejected for the same reasons as claim 7, above.

27. As per claims 19 and 30, claims are rejected for the same reasons as claim 8, above.

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28. As per claims 20 and 31, claims are rejected for the same reasons as claim 9, above.

29. As per claims 22 and 33, claims are rejected for the same reasons as claim 11, above.

30. As per claim 34, Notes discloses comprising reading said single memory location following said storing, and, in the event that said third statistical value comprises a negative value (612, 614, fig 6), writing a predetermined value to said single memory location (shared memory, col 5, lines 48-60).

31. As per claim 35, Notes discloses predetermined value comprises all zeros (1012 fig 10, reset).

32. As per claim 36, the claim is rejected for the same reasons as claim 34, above.

33. As per claim 37, the claim is rejected for the same reasons as claim 35, above.

34. As per claim 38, the claim is rejected for the same reasons as claim 34, above.

35. As per claim 39, the claim is rejected for the same reasons as claim 35, above.

***Claim Rejections - 35 USC § 103***

36. Claims 10, 21, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Notes et al. (5,231,593) (hereinafter Notes) in view of Soha et al. (4,187,080) (hereinafter Soha).

37. As per claim 10, 21, and 32, Notes fails to disclose the subset of data bits of the received data packet comprises 8 data bits of the received data packet. However, Soha discloses the subset of data bits of the received data packet comprises 8 data bits of the received data packet (8 bits, 50, fig 4). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Notes and Soha. The motivation would have been collecting and displaying statistical data for plurality of Local Area Network.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAS

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